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1 Q. That's right.

2 A. Right, but not the diagnosis. See, because
3 the doctor does two separate things, you document
4 symptoms and signs and describe laboratory tests,
5 then you make an interpretation of that. I think
6 you figured out long ago that I don't have any
7 disagreement with the symptoms, signs, and
8 laboratory tests documentation by Mr. Papadakis's
9 physicians. I disagree very strongly with their
10 interpretation of the abnormalities and the
11 diagnosis that they list for him. I completely --
12 not completely, but I disagree very strongly.

13 Q. Just to be clear on the record, the opinions you
14 expressed in the December 12, 2005, report that you
15 sent to Ms. Murphy, Mr. Flynn's office, are the
16 same opinions and conclusions you reached after you
17 saw the medical records that were generated by his
18 treating physicians?

19 A. Sure.

20 Q. Okay.

21 A. That's sort of what you would expect.

22 Q. Looking further in your report, Doctor, the one
23 line paragraph appearing on the top of page 2, you
24 note that he had no prior back problems, he injured
25 his neck in a car accident in 1993, but recovered

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1 100 percent. I take it, therefore, that this
2 historical event regarding an injury to his neck is
3 of no consequence regarding the lumbosacral back
4 pain, would you agree?

5 A. I would agree. I mean, that's based on my
6 look at the medical records also. This is his
7 history. This part of the note is just his
8 history.

9 Q. Didn't you have historical information of these
10 events in the records you received from Ms. Murphy?

11 A. That's what I said. My conclusion about the
12 lack of relevance reflects more than what he tells
13 me, it's also looking at the medical records.

14 Q. You were satisfied when you spoke to somebody at
15 Mr. Flynn's office, before seeing Mr. Papadakis,
16 that any complaints of neck pain that he may have
17 had back in 1993, had resolved?

18 A. Yes.

19 Q. Okay. In, I guess, the fourth paragraph that
20 begins with the phrase, "He continues to have low
21 back pain." Do you see that paragraph, Doctor?

22 A. Yes.

23 Q. There is a term in there that I, frankly, looked
24 up, but I couldn't find a definition for. It
25 appears in the third line from the bottom of that

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1. this one?

2. A. Sure. Sure.

3. Q. Was that CSX Railroad or Transportation?

4. A. I don't know. Not a clue.

5. Q. I am nearly finished here now. How shall I phrase
6. this: You have told me that you believe that
7. Mr. Papadakis was suffering some pre-existing
8. degenerative condition in his lumbar spine as of
9. June 13, 2001?

10. A. He was not suffering.

11. Q. Forgive me. That word suffering just keeps
12. creeping in my question.

13. A. You can see from my opinion that it's an
14. important word.

15. Q. I will accept that you're uncomfortable with that
16. word appearing in the question. I will take it
17. out.

18. A. Okay.

19. Q. Is it your opinion that as of June 13, 2001,
20. Mr. Papadakis had a pre-existing degenerative
21. condition in his lumbosacral spine?

22. A. Yes.

23. Q. Would you agree with me that a review of the
24. historical medical record would suggest that up
25. until that point in time, whatever that condition

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1 was, it hadn't presented pain symptoms to him as of
2 June 13, 2001?

3 A. Except for the minor incident that we
4 discussed earlier, and for whatever reason, the
5 films were done in 1969, yes.

6 Q. Okay. But the period immediately preceding, let me
7 define immediately, by ten years?

8 A. Sure.

9 Q. There had been no historical complaints in the
10 record documenting complaints of low back pain?

11 A. Right.

12 Q. But subsequent to June 13, 2001, Mr. Papadakis has
13 complained of low back pain?

14 A. Yes.

15 Q. And you believe that to some extent, at least for a
16 period, some period of time, that the events of
17 June 13, 2001, where he was bending and twisting,
18 played a causative role in that complaint of low
19 back pain?

20 A. Yes.

21 Q. But you believe that, to the extent that there was
22 an injury of June 13, 2001, it should have resolved
23 within weeks or months following that event?

24 A. Yes.

25 Q. You can't explain in medical -- provide a medical

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1 explanation why those complaints of pain have
2 become chronic and continue on to the present time?

3 A. Well, I mean, I see it in my office. As I
4 said, routine activity of daily living produce
5 recurrent muscle strain. That's almost the
6 universal explanation for this kind of story.

7 Q. Are you willing to acknowledge that the mechanical
8 injury that he sustained on June 13, 2001, may have
9 exacerbated the pre-existing condition of his low
10 back?

11 A. No. There is no evidence for that.

12 Q. That's not something you are willing to accept as a
13 possibility?

14 A. Well, there is no biological proof of that.
15 You know, the abnormalities are chronic and
16 degenerative in nature. It's not as if they took a
17 film of his low back and a bone was broken, and you
18 know, you, yourself, just said he could live for
19 years with those abnormalities and not utter a word
20 of complaint. You see how difficult it is looking
21 at the picture and predicting what Mr. Papadakis
22 looks like. You see the difficulty.

23 Q. Okay. I don't mean to be redundant or repetitive.
24 He didn't have the complaints before, that's the
25 symptom, no complaints of pain before June 13,

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1 2001?

2 A. Correct.

3 Q. Something occurred on that date that, you will
4 agree, caused him pain?

5 A. Yes.

6 Q. The pain is persistent, but you would not
7 acknowledge the potential that whatever that
8 mechanism that triggered the pain on June 13, that
9 did not exacerbate, aggravate, the pre-existing
10 problem?

11 A. Absolutely no evidence that the structural
12 abnormalities in his spine are producing him
13 symptoms, and his doctors' behavior is excellent
14 proof of that. They inject multiple levels with no
15 result. They seek to perform a discogram. Just
16 that desire is proof positive that the doctors do
17 not know whether any structure, let alone which
18 structure, in that abnormal MRI is producing his
19 symptoms. Just the fact that they requested a
20 discogram, that means you don't know what is
21 producing the symptoms.

22 Q. Are you saying the only function of the discogram
23 is to diagnose the pathology?

24 A. It's to inject disks and identify if the
25 patient's typical symptoms, you know, come back --